

REMARKS

In the Office Action dated April 15, 2004 claims 20-23, 30 and 33-35, in the above-identified U.S. patent application were rejected. Reconsideration of the rejections is respectfully requested in view of the above amendments and the following remarks. Claims 20-23, 30 and 33-35 remain in this application, claims 1-19 have been canceled and claims 24-29, 31 and 32 have been withdrawn.

Claims 20-23 and 30 were rejected under 35 USC §112, first paragraph, as lacking an adequate written description and as lacking enablement. The office action contends that the language “comprising” encompasses other unrecited amino acid sequences. The claims have been amended to indicate that the antibody or antibody fragment binds to the part of the protein encoded by the recited sequences. In view of these amendments applicants request that these rejections be withdrawn.

Claims 20-23, 30 and 33-35 were rejected under 35 USC §112, second paragraph. The claims have been amended as suggested in the office action. Applicants point out that the language “comprising” regarding the smaller fragment would not encompass other unrecited sequences since such sequences would not be a fragment of the larger sequence. In other words, the language “wherein said antibody or antibody fragment binds to a fragment of SEQ ID NO:3, wherein said fragment of SEQ ID NO: 3 comprises the amino acids shown in SEQ ID NO:22” means that the antibody binds only to fragments of SEQ ID NO:3 and the fragment includes SEQ ID NO:22 plus optionally other

parts of SEQ ID NO:3. Such language clearly does not include FLAG epitopes, polyhistidine tails or protein A fragments since such sequences are not fragments of SEQ ID NO:3. In view of these amendments applicants request that this rejection be withdrawn.

Claims 20-23 were rejected under 35 USC §102(b) as anticipated by Hopp. Applicants point out that the sequence disclosed in Hopp is not included in SEQ ID NO:3 or encoded by SEQ ID NO:1. Therefore Hopp clearly does not anticipate the claims as presently amended and applicants request that this rejection be withdrawn.

Claim 30 was rejected under 35 USC §103(a) as unpatentable over Hopp in view of the Stratagene catalog. As discussed above, the sequence disclosed in Hopp is not included in SEQ ID NO:3 or encoded by SEQ ID NO:1. The Stratagene catalog discloses kits but does not cure the deficiencies in Hopp. In view of above amendments, applicants request that this rejection be withdrawn.

Applicants respectfully submit that all of claims 20-23, 30 and 33-35 are now in condition for allowance. If it is believed that the application is not in condition for allowance, it is respectfully requested that the undersigned attorney be contacted at the telephone number below to discuss claim amendments which would make the claims allowable.

In the event this paper is not considered to be timely filed, Applicants respectfully petition for an appropriate extension of time. Any fee for such an extension together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

By



Monica Chin Kitts
Attorney for Applicants
Registration No. 36,105
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 1425 K Street, N.W.
Washington, D.C. 20005
Telephone: (202)783-6040